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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 EBAY INC.,

13 Plaintiff,

14 v.

15 DIGITAL POINT SOLUTIONS, INC.,  
16 SHAWN HOGAN, KESSLER'S  
17 FLYING CIRCUS, THUNDERWOOD  
18 HOLDINGS, INC., TODD DUNNING,  
DUNNING ENTERPRISE, INC., BRIAN  
and DOES 1-20,

19 Defendants.

Case No. C 08-04052 JF

**[PROPOSED] ORDER DENYING  
THE MOTIONS TO DISMISS THE  
FIRST AMENDED COMPLAINT BY  
DEFENDANTS DIGITAL POINT  
SOLUTIONS, INC. AND SHAWN  
HOGAN; THUNDERWOOD  
HOLDINGS, INC., BRIAN  
DUNNING, AND  
BRIANDUNNING.COM; TODD  
DUNNING AND DUNNING  
ENTERPRISE, INC.; AND  
KESSLER'S FLYING CIRCUS**

Hearing Date: December 12, 2008

Time: 9:00 a.m.

Judge: Hon. Jeremy Fogel

22 The four Motions to Dismiss Plaintiff's First Amended Complaint, filed on behalf  
23 of Defendants Digital Point Solutions, Inc. and Shawn Hogan; Thunderwood Holdings,  
24 Inc., Brian Dunning, and BrianDunning.com; Todd Dunning and Dunning Enterprise,  
25 Inc.; and Kessler's Flying Circus ("Defendants"), were heard by the Court on December  
26 12, 2008. Upon consideration of the papers submitted and the arguments of counsel, and  
27 for good cause shown, the Court hereby DENIES the Defendants' motions in their  
28 entirety.

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SO ORDERED.

DATED: \_\_\_\_\_

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The Honorable Jeremy Fogel  
United States District Judge

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